

REMARKS

Prior to entry of the instant amendment, claims 11-20 were pending in the subject application, of which claims 12, 13, and 17-20 are withdrawn. By the instant amendment, claims 11, 16, and 21 are amended; and claims 14 and 15 are cancelled without prejudice to, or disclaimer of, the subject matter contained therein. No new matter is added. Claims 1, 16, and 21 are independent.

Claims 11-13 and 16-21 are presented to the Examiner for further prosecution on the merits. Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claim Rejections - 35 U.S.C. § 112

I. First Paragraph

Claims 11, 14, 15 and 21 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In particular, the limitation "*adjusting a suction state without any time delay*" of claims 11 and 21 are not explicitly stated in the original disclosure. Applicant respectfully traverses this rejection for the reasons discussed below.

Applicant has amended claims 11 and 21 to recite that the suction state is without substantial any time delay, as suggested by the Examiner. Withdrawal of the rejection under 35 U.S.C. § 112, first paragraph, is respectfully requested.

II. Second Paragraph

Claims 11, 14-15 and 21 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses this rejection for the reasons discussed below.

As discussed above, Applicant has amended claims 11 and 21, taking into consideration the Examiner's suggestion, to obviate the rejection. Withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, is respectfully requested.

Claim Rejections - 35 U.S.C. § 103

Claims 11 and 14-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,682,750 ("Gerber") in view of U.S. Patent No. 5,277,092 ("Kinta"). Applicant respectfully traverses this rejection for the reasons discussed below.

Initially, it is noted that claim 21 has not been rejected under art. However, from the assertions made by the Examiner in the Office Action (particular page 5, paragraph 12), it appears that claim 21 is also rejected as being unpatentable over Gerber in view of Kinta. Therefore, Applicant will address claim 21 as being rejected over currently applied rejection.

Applicant respectfully submits that the Gerber and the Kinta references, individually or in combination, fail to disclose, or even suggest, *inter alia*, **"the suction state is adjusted in stages as cutting progresses, taking into consideration the already-cut portion of the sheet material as a reference,"** as recited in amended claims 11, 16, and 21. Support for the amendments made to claims 11, 16, and 21 may be found in the originally filed disclosure, e.g., at page 9, lines 8-12, page 24, lines 12-24, and originally filed claims 14 and 15.

In the outstanding Final Office Action, the rejection is based on an assertion that "the modified apparatus of Gerber discloses the method wherein the suction state is adjusted in stages as cutting progresses (both the masking and the suction adjustments are done during cutting), by adjusting for losses in suction from cuts

in the sheet material.” *See Office Action, page 5, paragraph 11.* Applicant respectfully disagrees.

In particular, there is no discussion or mention in the Gerber reference that **the suction state is adjusted in stages** as the cutting progresses. In fact, the Gerber reference discloses that “vacuum is applied to the table 12 by a duct 38 which communicates with the chamber 36 and is connected to a suitable vacuum source (not shown), the source preferably being one of high flow rate capacity.” *See col. 3, lines 9-12 of the Gerber reference.* In other words, one skilled in the art would appreciate that since the vacuum in the Gerber reference is at a high flow rate capacity, the vacuum must be consistent, instead of being adjusted in stages.

Moreover, the Gerber reference completely fails to teach or suggest the adjustment of the suction state is based on **(used as a reference)** the already cut portion of the sheet material. There is no adjusted suction based on the already-cut portion. In fact, because the Gerber reference discloses using a sealing device 24 to dispense quantity of sealing material to form a closure for cut 22 (see *FIGS. 3 and 4 of Gerber*), it is respectfully submitted that the **already-cut portion of Gerber cannot be used as a reference.**

By contrast, as shown in example embodiments, the suction state may be adjusted in stages as the cutting progresses so as to reduce the control burden by suppressing fluctuation in a compression state of the sheet material 1 within a tolerance range thereby reducing a number of suction adjustments. Moreover, the suction state may be adjusted in stages as the cutting progresses, taking into consideration the already-cut portion of the sheet material as a reference so as to adjust suction at the moment the cutting blade 14 moves apart from the sheet material 14 between parts, and thus the adjustment can be easily arranged.

Since the rejection fails to disclose or suggest each and every element of the rejected claims, Applicant respectfully submits that no *prima facie* case of obviousness has been established with respect to claims 11, 16, and 21.

In view of the above, Applicant respectfully submits that the Gerber and the Kinta references, individually or in combination, fail to teach or suggest each and every element of claims 11, 16, and 21, and therefore, claims 11, 16, and 21 are allowable over the cited prior art. Claims 16 and 17 are dependent from claim 11 and, therefore, also allowable. Accordingly, Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

Entry of After Final Amendment

Applicant submits that this Amendment After Final Rejection places this application in condition for allowance by amending claims in manners that are believed to render all pending claims allowable over the cited art and/or at least place this application in better form for appeal. This Amendment is necessary because clarifies the feature of the suction state, and was not earlier presented because Applicant believed that the prior response placed this application in condition for allowance, for at least the reasons discussed in those responses. Accordingly, entry of the present Amendment, as an earnest attempt to advance prosecution and/or to reduce the number of issues, is requested under 37 C.F.R. §1.116.

CONCLUSION

In view of the above remarks and amendments, Applicant respectfully submits that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. Further, the above remarks demonstrate the failings of the outstanding rejections, and are sufficient to overcome the rejections. However, these remarks are not intended to, nor need they, comprehensively address each and every reason for the patentability of the claimed subject matter over the applied prior art. Accordingly, Applicant does not contend that the claims are patentable solely on the basis of the particular claim elements discussed above.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned, at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY, & PIERCE, P.L.C.

By


Donald J. Daley, Reg. No. 34,313

P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

DJD/DJC:clc